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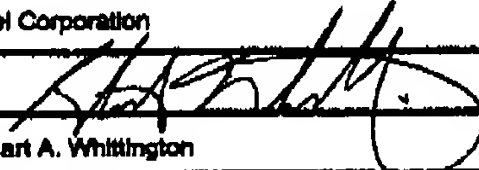
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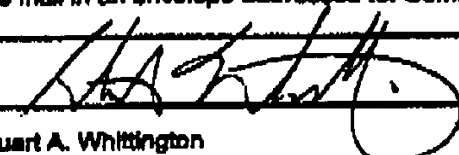
TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/595,557
	Filing Date	June 14, 2000
	First Named Inventor	Dixon, Robert C.
	Art Unit	2618
	Examiner Name	Tran, Pablo N.
	Attorney Docket Number	226/132 (Old); P11511C2R (New)
Total Number of Pages in This Submission		18

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavit/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Intel Corporation		
Signature			
Printed name	Stuart A. Whittington		
Date	July 24, 2006	Reg. No.	45,215

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FEE TRANSMITTAL

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☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500

Complete if Known

Application Number	09/595,557
Filing Date	June 14, 2006
First Named Inventor	Dixon, Robert C.
Examiner Name	Tran, Pablo N.
Art Unit	2618
Attorney Docket No.	228/132 (old); P11811C2R (new)

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☒ Deposit Account Deposit Account Number: 50-0221 Deposit Account Name: Intel Corporation

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

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FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues)

Fee (\$)	Small Entity Fee (\$)
50	25
200	100
360	180

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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- 20 or HP =

x

=

HP = Highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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- 3 or HP =

x

=

HP = Highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Brief in Support of Appeal: Fee Code 1402

Fees Paid (\$)

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Signature

Registration No.
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Name (Print/Type) Stuart A. Whittington

Date July 24, 2006

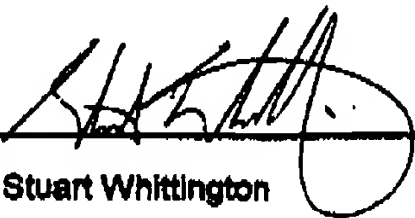
This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1480, Alexandria, VA 22313-1480. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1480, Alexandria, VA 22313-1480.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Dixon, Robert C.

Atty. Docket No: 226/132 (Old)
P11511C2R (NEW)

Appln. No.: 09/595,557

Group Art Unit: 2618

Filed: June 14, 2000

Examiner: Tran, Pablo N.

Title: THREE-CELL WIRELESS COMMUNICATION SYSTEM

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BRIEF ON APPEAL

Pursuant to Appellant's Notice of Appeal filed on May 24, 2006, Appellant presents this Brief in appeal of the Final Rejection dated January 26, 2006.

I. REAL PARTY IN INTEREST.

Intel Corporation is the real party in interest.

II. RELATED APPEALS AND INTERFERENCES.

There are no related appeals or interferences before the Board of Patent Appeals and Interferences or related judicial proceedings known to Appellant, the Appellant's legal

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U.S. Appl. No. 10/793,986

representatives, or assignee that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS.

Claims 1-29 have at one time, been pending in the present application. Claims 1, 7-11, 21 and 23 were cancelled and thus only claims 2-6, 12-20, 22 and 24-29 remain pending. Claims 26-29 are withdrawn from consideration due to a restriction requirement and claims 2-6, 12-20, 22 and 24-25 stand finally rejected and are the claims subject to this appeal. Claims 2-6, 12-20, 22 and 24-25 are reproduced in the attached Appendix A.

IV. STATUS OF AMENDMENTS.

No amendments to the application have been presented since the final rejection dated January 26, 2006. A response requesting reconsideration of the final rejections was submitted on April 26, 2006 which the Advisory Action mailed June 5, 2006 indicated had been considered but did not place the application in condition for allowance.

V. SUMMARY OF CLAIMED SUBJECT MATTER.

The present application is a reissue application of U.S. Patent 5,850,600. In a wireless communication system it is generally necessary for a receiver to distinguish between those signals in its operating region that it should accept and those it should ignore or reject (U.S. 5,850,600; col. 1., ll. 17-20). A common method in the art is to use frequency division (e.g.,

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frequency division multiple access or FDMA), in which separate frequencies are assigned to each communication channel. Another common method in the art is to use time division (e.g. time division multiple access or TDMA), in which a separate timeslot in a periodic time frame is assigned for each communication channel. (Col. 1, ll. 20-25).

In FDMA systems, all relatively proximate cells (generally a cell is a geographic area surrounding a multiple access base station), not just adjacent cells, must operate on different frequencies and thus frequencies may be reused only sufficiently far away (e.g., two to three times the diameter of a single cell) such that interference for reused frequencies is not present. (Col. 1, ll. 26-35).

Appellant's claimed invention may be exemplified referring to the specification as a wireless communication system 201 for communication among a plurality of user stations 202. (Col. 2, ll. 50-51). System 201 may include a plurality of cells 203, each with a base station 204 (typically located at the center of the cell 203). A control station 205 may, although it is not required, manage resources of system 201 such that frequencies are assigned for use by the stations (base stations and user stations) within a cell and are not utilized in any adjacent cell. (Col. 3, ll. 10-20). In certain embodiments, time division and frequency division (or frequency offset techniques) are used and in other embodiments spread spectrum techniques using distinct codes may be used such that frequency resources can be allocated to facilitate a tightly repeatable cell pattern which does not experience significant inter-cell interference. (Col. 4, ll. 32 and 38-40). In one embodiment, frequencies may dynamically assigned or reassigned for use

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within each cell from a limited predetermined set (for example, 3) of frequencies available for use by each base station and/or a limited set of frequencies (for example, 3) available for use by each user station. (Col. 4, ll. 60- col. 5, ll. 5 and col. 5, ll. 6-18).

Cells 203 may be disposed in a repeated pattern shown in Fig. 1. In one example embodiment, a cell 203 may be in one of three classes: a first class A 207, a second class B 208 or a third class C 209. In the repeated pattern, no cell of a class is adjacent to another cell from its same class. In one embodiment, three spread-spectrum codes may be pre-selected for minimal cross-correlation attribute and each code may be assigned to each class of cells 203. (Col. 3, ll. 10-19).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL.

The only issues for consideration on this Appeal are:

- A. Whether claims 2-6, 12-20, 22 and 24-25 are properly rejected under 35 U.S.C. § 251 as being based upon a defective reissue declaration; and
- B. Whether claims 2-6 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over the article "Comparisons of Channel-Assignment strategies in Cellular Mobile Telephone Systems" (IEEE 1990) by Zhang et al. (hereinafter "Zhang") in view of U.S. Patent 5,355,367 to Comroe et al. (hereinafter "Comroe").

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VII. ARGUMENT.

A. APPELLANT'S REISSUE DECLARATION FULLY COMPLIES WITH THE REQUIREMENTS OF 37 C.F.R. § 1.175 AND 37 C.F.R. § 1.63.

All of Appellant's claims are finally rejected in the 1/26/06 Office Action as allegedly being based on a defective reissue declaration stating "the nature of the defect is set forth above" although no specific defect appears to have ever been made of record (1/26/06 Office Action pg. 2).

In its response of 4/26/06, Appellant requested clarification of this rejection since (i) the original reissue declaration appears to have no defects; and (ii) the assignee in fact submitted a supplemental reissue declaration as requested by the previous examiner of record on February 6, 2002. To date, no clarification has been provided and in fact it does not appear that the supplemental declaration by the assignee submitted on 2/6/02 was ever acknowledged.

To this end, Appellant has exhaustively searched the history of this application and is unable to determine any specific reason for which a supplemental declaration would be necessary¹. Furthermore, even after subsequent requests, the reasons upon which a supplemental declaration is requested have never been stated in the record. Appellant respectfully submits that simply because an applicant amends claims during prosecution of a reissue application, it does

¹ It appears the Examiner noted a typographical informality in original claim 11 in the 3/7/03 Office Action but since this claim was cancelled, rather than amended to correct other than a typographical error, citation of 37 C.F.R. § 1.175(b)(1) does not appear to be applicable.

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not necessarily follow that an "error" is being corrected. Not all changes with respect to the patent constitute the "error" required by 35 U.S.C. § 251. MPEP 1414(II) and 1414.01

In any event, since no reasons have ever been stated why additional supplemental declarations are being required, the continued denial of Appellant's claimed invention from patenting appears unjustified. Accordingly, Appellant respectfully requests that the Board overturn this rejection or at minimum, require prosecution to be reopened so that this ongoing rejection may be clarified by the Examiner.

**B. APPELLANT'S CLAIMS ARE PATENTABLE OVER THE
COMBINATION OF ZHANG IN VIEW OF COMROE.**

LEGAL STANDARD

Prima facie obviousness is only established when three basic criteria are met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Vaack*, 947 F.2d 488 (Fed. Cir. 1991) (MPEP 2144).

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990).

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ARGUMENT

Zhang discloses channel assignment strategies for use in a frequency division multiple access (FDMA) cellular mobile telephone system using the frequency band allocated by the FCC having 832 duplex frequency channels for transmissions between mobile stations and base stations. (Zhang, pg. 211, sec. I). There are several techniques (fixed assignment (FA), simple borrowing (SB), hybrid assignment (HA), borrowing with Channel Ordering (BCO) and borrowing with directional channel locking) discussed by Zhang to increase the amount of potential calls a base station in an FDMA multi-cell network can handle at one moment if necessary. Zhang discloses that to satisfy the large demand of mobile telephone service, the frequency division duplex channels need to be reused in different non-interfering cells and proposes various ways of allocating channels amongst a plurality of cells to reduce blocked calls. Accordingly, Zhang is dedicated to techniques for increasing the number of FDMA channels that a base station might need to support calls without interfering with the FDMA frequencies being used by adjacent cells.

By way of contrast, Comroe discloses a communication system in which a one cell re-use pattern of communication resources may be used in the communication system. Comroe discloses that each base station may be sectorized so that each adjacent cell may use the same channel resources, but that adjacent sectors between two neighboring cells use different frequency resources to reduce signal-to-noise and interference ratios. (Fig. 1, col. 3, ll. 27-34; and col. 2, ll. 1-5). Comroe discloses that time division multiplexing (TDM) may be used in its

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system to improve call capacity of the communication system by splitting digital frames of the same frequency channel amongst multiple callers (col. 1, ll. 51-58). However, there does not appear to be any teaching or suggestion by Comroe that TDM can be combined with multi-cell pattern FDMA systems (where every transmission in a cell uses different frequency channel), such as that disclosed by Zhang.

In fact, Appellant respectfully submits that the use of sectorized base stations using TDM disclosed by Comroe would appear to render the shortage of frequency channels in an FDMA system, which the Zhang methods are entirely devoted to addressing, entirely moot. Accordingly, the proposed modification of Zhang with the TDM techniques of Comroe appears to render to primary reference (Zhang) unsuitable for its intended purpose, namely increasing the number of available FDMA channels a base station can use without blocking calls. Further, Comroe teaches away from Zhang by explicitly teaching allocating frequency resources using TDM in a one cell re-use sectorized pattern while Zhang discloses multi-cell non-sectorized frequency re-use patterns for FDMA systems.

In any event, because Zhang makes no mention of using TDM and because there is no suggestion by Comroe that TDM could or should be used in FDMA systems such as Zhang, the combination of these references as proposed in the Office Action appears to be based solely on a hindsight attempt to reconstruct Appellant's claims rather than based on actual motivation disclosed in the references or known to those skilled in the art. Because there does not appear to be proper motivation to combine Zhang and Comroe as proposed in the Office Action, and in

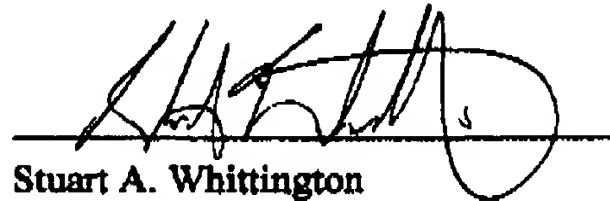
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fact, the respective references each teach away from the limitations present in Appellant's, claims 2-6, Appellant respectfully submits prima facie obviousness has not been established and requests the Board to overturn the §103 rejection of claims 2-6.

VIII. CONCLUSION.

It is respectfully submitted that in view of the foregoing all of the pending claims are patentable and the Board is respectfully requested to overturn the rejections of record and allow this application to issue.

Respectfully submitted,



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Date: July 24, 2006

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APPENDIX A
(Claims on Appeal)

2. A wireless communication system of claim 4, wherein said first transmission frequency is from a first set comprised of a limited first predetermined number of frequencies and wherein said second transmission frequency is from a second set comprised of a limited second predetermined number of frequencies, whereby said first set of frequencies is different than said second set of frequencies.

3. The wireless communication system of claim 2, wherein said first predetermined number of frequencies is three and said second predetermined number of frequencies is three.

4. A wireless communication system comprising:
a pattern of cellular radio communication cells; and
a base station for communicating with one or more user stations, the base station dynamically assigned a first transmission frequency for transmitting in a first cell of said pattern of cells, said first transmission frequency not being assigned to any base station for transmitting in any cell in said pattern of cells adjacent to said first cell; and the one or more user stations each assigned a second transmission frequency for transmitting to said base station, said second transmission frequency not being assigned to any user station in any cell in said pattern of cells adjacent to said first cell;
wherein said base station and said user stations communicate using time division multiple access.

5. The wireless communication system of claim 4, wherein the user stations in said first cell are dynamically assigned said second transmission frequency.

6. A wireless communication system, comprising:
a pattern of cellular radio communication cells;

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**APPENDIX A
(Claims on Appeal)**

a base station assigned a first transmission frequency for transmitting to a first cell in said pattern of cells, said first transmission frequency not being assigned to any base station for transmitting to any cell in said pattern of cells adjacent to said first cell; and

one or more user stations each assigned a second transmission frequency for transmitting to said base station for the respective first cell, said second transmission frequency not being assigned to any user station in any cell in said pattern of cells adjacent to said first cell;

wherein said base station and user stations communicate using time division multiple access, and transmissions between said base station transmitting to said first cell and the user stations in said first cell are time division duplexed.

12. A wireless communication system, comprising:

a pattern of cells; and

a base station associated with a first cell in said pattern of cells for communicating with one or more user stations in the first cell;

wherein said base station is assigned a first transmission frequency for transmitting in the first cell in the pattern of cells, said first transmission frequency not being assigned to any base station for transmitting in any cell of said pattern of cells adjacent said first cell;

wherein said user stations in said first cell are assigned a second transmission frequency, said second transmission frequency not assigned to any user stations in any cell in said pattern of cells adjacent said first cell;

wherein said base station is further assigned a first spread spectrum code for modulating radio communication for said first cell; and

wherein said user stations in said first cell are each assigned a second spread spectrum code for modulating radio communication from said first cell.

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APPENDIX A
(Claims on Appeal)

13. The wireless communication system of claim 12, wherein said first transmission frequency is from a first set comprised of a limited first predetermined number of frequencies and wherein said second transmission frequency is from a second set comprised of a limited second predetermined number of frequencies.

14. The wireless communication system of claim 13, whereby the frequencies of said first set of frequencies are mutually exclusive of the frequencies of said second set of frequencies.

15. The wireless communication system of claim 13, wherein said first predetermined number of frequencies is three and said second predetermined number of frequencies is three.

16. The wireless communication system of claim 12, wherein said base station is dynamically assigned said first transmission frequency.

17. The wireless communication system of claim 12, wherein a user station is dynamically assigned said second transmission frequency when it enters said first cell.

18. The wireless communication system of claim 12, wherein each base station servicing said pattern of cells uses said first spread spectrum code for modulating radio communication for said pattern of cells and wherein each user station in said pattern of cells uses said second spread spectrum code for modulating radio communications from said pattern of cells.

19. The wireless communication system of claim 12, wherein said pattern of cells comprises a repeated pattern of cells consisting essentially of a first class of cells, a second class of cells, and a third class of cells, wherein no member of said first class of

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**APPENDIX A
(Claims on Appeal)**

cells is adjacent to another member of said first class of cells, no member of said second class of cells is adjacent to another member of said second class of cells and no member of said third class of cells is adjacent to another member of said third class of cells.

20. The wireless communication system of claim 12, wherein said first spread spectrum code and said second spread spectrum code comprise a set of codes with minimal cross-correlation attributes.

22. A multiple user wireless communication system comprising:
a plurality of cells;
a base station located in each cell to transmit over a first frequency; and
one or more user stations in communication with said base station to transmit over a second frequency different from said first frequency;
wherein transmitters in a first cell are assigned a first code for modulating radio communication in said first cell and radio signals used in said first cell are spread across a bandwidth sufficiently wide that receivers in a second cell adjacent to the first cell may distinguish communication which originates in said first cell from communication which originates in said second cell;
wherein said first cell using said first code is not adjacent to any other cell using said first code and said base station communicates with said user stations using time division duplexing.

24. A multiple user wireless communication system comprising:
a plurality of cells;
a base station assigned a first transmission frequency for transmitting to a first cell in said plurality of cells, said first transmission frequency not being assigned to any base station for transmitting to any cell in said plurality of cells adjacent said first cell; and

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**APPENDIX A
(Claims on Appeal)**

a plurality of user stations in said first cell assigned a second transmission frequency not assigned to any user stations in any cell in said plurality of cells adjacent said first cell;

wherein said base station and said user stations in said first cell are assigned one or more distinct codes for modulating radio communication for said first cell; and

wherein said base station is assigned a first set of one or more distinct spreading codes for communicating with user stations in said first cell that are not assigned to any base station for communicating in any cell in said plurality of cells adjacent said first cell, and said user stations in said first cell are assigned a second set of one or more distinct spreading codes that are not assigned to any user in any cell in said plurality of cells adjacent said first cell.

25. The wireless communication system of claim 24, wherein said base station communicates with said user stations using time division duplexing.

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APPENDIX B
(Evidence Appendix)

There is no additional evidence relied upon in this Appeal.

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APPENDIX C
(Related Proceedings Appendix)

There are no proceedings or decisions related to this Appeal.